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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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08/998,507 12/26/97 BAUER

A 1704345

EXAMINER

QM02/0818

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FORD, J

ART UNIT

PAPER NUMBER

3743

DATE MAILED 08/18/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 5-17-99

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-32 is/are pending in the application.
Of the above, claim(s) 5, 6 and 8 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-4, 7, 9-32 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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Applicant has elected the third species of device wherein PAB SOLL is determined by supply air pressure (Page 13, penultimate paragraph) and claim 2 (as amended). Applicant has identified claims 1-4, 7 and 9-32 as being readable on the elected species.

The disclosure is objected to because of the following informalities: On page 2, line 28, "difference the" should be changed to -- difference -- and -- the -- should be inserted before "pressure". On page 3, line 10, "no longer open can be opened" makes no sense. Please fix this and other grammatical mistakes too numerous to enumerate individually.

Appropriate correction is required.

Claims 1-4, 7 and 9-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 "for example" is vague. Claim the limitations positively without ambiguity. Claim 3 appears to conflict with claim 2. In claim 2, the exhaust fan desired value is determined by supply air pressure. In claim 3 it is something else. Claim 4 attempts to impermissibly redefine the subject matter of claim 2. If applicant contends that claims 3 and 4 do not impermissibly redefine claim 2, then show the examiner in the specification precisely where this subject matter is disclosed. Claim 5 is vague as it has too many alternatives and it doesn't make sense. In simple English, what are you attempting to claim? What does "has in each case a further predetermined constant magnitude" supposed to mean? Claim 7 is unintelligible. The phrase "in respect to" is not understood. The pressure differential is the difference between room and outdoor pressures.

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What does room ^{height} bright have to do with it? Claim 8 is unintelligible. What does it mean? Claim 32 does not appear to be descriptive of the disclosed system. Precisely wherein the original specification is the subject matter of claim 32 disclosed? Claim 32 is alternative with respect to rooms, room or room zones and claims 1 and 2 do not provide proper antecedent for such limitations. Claim 9 is unintelligible. What is adjustment "over the performance of the supply air motor" supposed to mean in the context adjusting channel pressure?

Please correct the remainder of the claims as well in the manner suggested with respect to claims 1-9 and 32. In the event of specific questions the examiner may be contacted at the number listed below. Much of the problem stems from a "difficult" translating from the original German.

Please go over the claims carefully to put them in proper diction and to make sure they accurately describe the system disclosed in the specification.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1, 2 and 4 re rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nelson (USP 5,820,456).

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Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JA 0,092,738 or Nilsson USP 4,781,107.

See Fig. 3 of JA '738. Note col. 4, lines 52-56 of Nilsson.


Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Smith (USP 4,437,608) or Belusa USP (4,705,457).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of the prior art as applied to claim 2 above, and further in view of GB '914.

GB '914 teaches keep^{ing} a standard difference between the total pressures existing in supply duct 6 and return duct 12. Separate pressure sensors 20 and 25 are disclosed. To have controlled the return fans in the prior art to maintain a predetermined pressure differential between the supply and return ducts would have been obvious in view of the teaching of GB '914.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to John Ford at telephone number (703) 308-2636.


John K. Ford
Primary Examiner

J. FORD:LM
AUGUST 03, 1999